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10/065,075

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David Allport

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PIONEER NORTH AMERICA, INC.  
- INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER

HONG, HYUN J

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/065,075	<b>Applicant(s)</b> ALLPORT, DAVID	
	<b>Examiner</b> Hyun J. Hong	<b>Art Unit</b> 2426	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 December 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-128, 161 and 162 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-128, 161 and 162 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office Action is in response to an Amendment filed 12/07/09. Claims 1-128, 161, 162 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/07/09 has been entered.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 24-46, 56-78, 88-110, 120-128, 161, 162 are rejected under 35 U.S.C. 102(a) as being anticipated by Schein (US 6,412,110).

**Regarding claim 1**, Schein discloses an electronic program guide system comprising (fig. 1):

A program grid including a plurality of cells, wherein each of said cells contains program information (fig. 1); and

A visual indicator of an active point in time disposed within said program grid (fig. 1 *mouse pointer* *The point in time that the mouse pointer is currently on represents the "active point in time"*);

Said program grid including an axis representing time (fig. 1);

Said visual indicator including a position corresponding to a single point in time of an active cell within said grid (fig. 1 *mouse pointer*).

Wherein a portion of said visual indicator specifying said active cell is visually different from another portion of said visual indicator (fig. 1 *The bottom portion of the mouse pointer is visually different from the top portion of the mouse pointer. The pointer is moveable around the EPG while the cells remain stationary*). wherein said visual indicator is moveable relative to the axis upon a user input request (fig. 4 lines 7-21).

**Regarding claim 2**, Schein discloses wherein said plurality of cells comprises a plurality of columns disposed along a horizontal axis and at least one row disposed along a vertical axis (fig. 1).

**Regarding claim 3**, Schein discloses wherein the horizontal axis represents time, and said position corresponding to said single point in time is a horizontal position (fig. 1).

**Regarding claim 4**, Schein discloses wherein said visual indicator is movable relative to the horizontal axis and vertical axis (fig. 1 *mouse pointer*, col. 4 lines 21-32);

**Regarding claim 5**, Schein discloses wherein said visual indicator is an information line (fig. 1 *7:30 pm line*).

**Regarding claim 6,** Schein discloses wherein said visual indicator indicates one active cell within said grid (col. 4 lines 21-32).

**Regarding claim 7,** Schein discloses wherein said information line is vertically oriented (fig. 1).

**Regarding claim 8,** Schein discloses wherein said information line intersects a plurality of said cells (fig. 1).

**Regarding claim 9,** Schein discloses a visually distinctive segment for indicating said one active cell (fig. 1).

**Regarding claim 10,** Schein discloses wherein said visual indicator is an icon (fig. 1 mouse pointer).

**Regarding claim 11,** Schein discloses wherein said visual indicator is a visually distinctive graphical element (fig. 1 mouse pointer).

**Regarding claim 12,** Schein discloses further comprising a visual indication of an active row within which said active cell is contained (fig. 19).

**Regarding claim 13,** Schein discloses wherein said visual indication of said active row (fig. 19), in combination with said visual indicator of said active point in time, indicate said active cell (mouse pointer, fig. 1 of Schein).

**Regarding claim 14,** Schein discloses further comprising a supplemental information display area, wherein said supplemental information display provides information on a program displayed within said active cell (fig. 15).

**Regarding claim 24,** Schein discloses wherein, in response to a user command to move said visual indicator up, said visual indicator is relocated to a new vertical position without changing said horizontal position (col. 3 lines 59-64, col. 4 lines 22-32).

**Regarding claim 25,** Schein discloses wherein, in response to a user command to move said visual indicator down, said visual indicator is relocated to a new vertical position without changing said horizontal position (col. 3 lines 59-64, col. 4 lines 22-32).

**Regarding claim 26,** Schein discloses wherein a first active cell within said grid is indicated, said first active cell displaying program information for a first program (fig. 1, col. 4 lines 6-32).

**Regarding claim 27,** Schein discloses wherein, in response to a user command to move said visual indicator right, said visual indicator is relocated to a new horizontal position said new horizontal position corresponding to an end time of said first program (fig. 1, col. 4 lines 6-32).

**Regarding claim 28,** Schein discloses wherein, in response to said user command, said first active cell is deactivated, and a second cell becomes active, said second cell being located on the same row and to the right of previous said first active cell, said second cell displaying program information for a second program, said second program having a start time equal to said end time of said first program (fig. 1, col. 4 lines 6-32).

**Regarding claim 29,** Schein discloses wherein, in response to a user command to move said visual indicator left, said visual indicator is relocated to a new horizontal position corresponding to the start time of said grid (fig. 1, col. 4 lines 6-21).

Art Unit: 2426

**Regarding claim 30**, Schein discloses wherein, in response to said user command, said first active cell is deactivated, and a second cell becomes active; said second cell being located to the left of said first active cell; said second cell being the first cell appearing in said grid on said row (fig. 1, col. 4 lines 6-32).

**Regarding claim 31**, Schein discloses wherein, in response to a user command to move said visual indicator left, said visual indicator is relocated to a new horizontal position corresponding to the start time of a second cell; said second cell being located on the same row and to the left of said first active cell; said second cell being immediately adjacent to said first active cell (fig. 1, col. 4 lines 6-32).

**Regarding claim 32**, Schein discloses wherein, in response to said user command, said first active cell is deactivated, and said second cell becomes active (fig. 1, col. 4 lines 6-32).

**Regarding claims (33-40, 42, 43, 56-64), (65-72, 74, 75, 88-96), (97-104, 106, 107, 120-128)**, see the rejections of claims 1-8, 10, 11, 24-32.

**Regarding claims (41, 44-46), (73, 76-78), (105, 108-110)**, see the rejections of claims 9, 12-14.

**Regarding claim 161**, Schein discloses wherein the visual indicator is displayed on all cells of said active point in time disposed within the grid (fig. 1(199)).

**Regarding claim 162**, see the rejection of claim 161.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-23, 47-55, 79-87, 111-119 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schein (US 6,412,110) in view of Broadus (US 2002/0144264).

**Regarding claim 15**, Schein does not disclose a duration strip that provides a visual indication of airing time for a program displayed within said active cell.

In analogous art, Broadus discloses a duration strip that provides a visual indication of airing time for a program displayed within said active cell (fig. 5(514)).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 16**, Schein does not disclose wherein said duration strip is disposed within said supplemental information display area

However, Broadus discloses wherein said duration strip is disposed within said supplemental information display area (fig. 5 (514) of Broadus).



It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 17**, Schein does not disclose wherein said duration strip is movable to correspond with movement of said visual indicator of said active cell.

However, Broadus discloses wherein said duration strip is movable to correspond with movement of said visual indicator of said active cell ([0074-0075] of Broadus *The duration strip, as well as the information line are dependent upon the current time*).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 18**, Schein does not disclose wherein said duration strip comprises a visual indication that a portion of said airing time of said program is not displayed within said grid

However, Broadus discloses wherein said duration strip comprises a visual indication that a portion of said airing time of said program is not displayed within said grid (fig 5 (512) of Broadus).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 19**, Schein does not disclose further comprising a descriptive label that provides additional information on a program displayed within said active cell.

However, Broadus discloses further comprising a descriptive label that provides additional information on a program displayed within said active cell (fig. 5(514) of Broadus).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 20**, Schein does not disclose wherein said descriptive label is disposed within said supplemental information display area

However, Broadus discloses wherein said descriptive label is disposed within said supplemental information display area (fig. 5(514) of Broadus *The cell is the supplemental information display area*).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 21**, Schein does not disclose wherein said descriptive label is movable to correspond with movement of said information line.

However, Broadus discloses wherein said descriptive label is movable to correspond with movement of said information line ([0070-0071] of Broadus *The duration bar and the information line move according to the current time*).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 22**, Schein does not disclose wherein the alignment of said descriptive label with respect to said information line depends upon the alignment of said information line with respect to the start of said active cell

However, Broadus discloses wherein the alignment of said descriptive label with respect to said information line depends upon the alignment of said information line with respect to the start of said active cell ([0070-0071] of Broadus).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claim 23**, Schein does not disclose wherein text displayed in said supplemental information display area wraps around said descriptive label.

However, Broadus discloses wherein text displayed in said supplemental information display area wraps around said descriptive label (fig. 5 of Broadus *The cell is wrapped around the duration bar*).

It would have been obvious to combine the duration strip of Broadus into the program guide of Schein. This would enable the user to see how much a current program has been broadcast.

**Regarding claims 47-55, 79-87, 111-119**, see the rejections of claims 15-23.

Art Unit: 2426

### ***Response to Arguments***

In response to applicant's argument:

The present rejection misapplies Borden to Applicant's claim 1 (and/or misinterprets the disclosure of Borden).

The Office Action states on page 12, in response to Applicant's arguments, Borden discloses wherein a portion of a visual indicator specifying said

active cell is visually different from another portion of said visual indicator (fig. 7 *The vertical line in between 8:30 and 9:00 represents' the visual indicator. The portion of the vertical line that is part of the highlighted grid is different from the rest of the vertical line*) and wherein said visual indicator is movable along an axis upon a user request (fig. 7 *The user can scroll the grid left or right. The position of the vertical line separating 8:30 and 9:00 changes respective of the grid's current position*).

The portion of the vertical line that is part of the highlighted grid in Borden cannot be considered as a portion of a "visual indicator" according to Applicant's claim 1. Claim 1 requires, "a portion of said visual indicator specifying said active cell is visually different from another portion of said visual indicator. Claim 1 also requires "the visual indicator" to be movable upon a user input request. Since "the portion" and the "another portion" of the visual indicator are parts of the visual indicator, both are movable.

Arguments are moot in view of new interpretation of previously cited art. Schein reference is used for the teachings of claim 1.

In response to applicant's argument:

1.

Pointer

The pointer 110 is movable but lacks the following features of Applicant's claim 1:

a position corresponding to a single point in time of an active cell within the grid (since Schein's entire active cell is highlighted when the user moves the pointer over the area associated with the cell, the pointer corresponds to a graphical area having a time duration) (See Col. 4, lines 27-32); and a portion of said visual indicator specifying said active cell is visually different from another portion of said visual indicator (Schein states in col. 4, lines 27-32 that "the item" may be highlighted, but does not teach or suggest, for example, that a portion of the pointer may be highlighted relative to another portion of the pointer).

Thus, Schein's pointer cannot be interpreted as corresponding to Applicant's claimed "visual indicator". Examiner respectfully disagrees. While the pointer causes a cell to be highlighted, the

pointer still represents an active point in time (fig. 1). Using the broadest reasonable

Art Unit: 2426

interpretation of "active point in time", the point in time that corresponds to the current position of the pointer in Schein can be interpreted to represent an active point in time; since the user has actively moved the cursor to that time point (fig. 1, col. 4 lines 7-21).

In response to applicant's argument:

2.

Time Line 199

Time line 199 merely represents the current time with respect to the start of the programs.

Time line 199 lacks at least the following features of Applicant's claim 1:

a portion of said visual indicator specifying said active cell is visually different from another portion of said visual indicator (Schein's time line 199 has a consistent dotted format, and does not in any way "specify" an "active cell";

wherein said visual indicator is movable relative to the axis upon a user input request (As acknowledged by the Examiner, Schein's time line 199 is movable along an axis upon a user input request).

Thus, Schein's time line 199 also cannot be interpreted to correspond to Applicant's claimed "visual indicator".

Arguments are moot in view of new interpretation of previously cited art. Schein's

mouse pointer is used to represent the visual indicator of claim 1 (fig. 1).

In response to applicant's argument:

Teaching Away From Combination

A person of ordinary skill in the art would not be led to combine the teachings of Schein and Borden, particularly since Borden expressly teach away from such a combination by suggesting a fixed program selection area. For example, Borden disparage the "roving cursor" as having "several undesirable features". (Col. 2, lines 38-39).

2.

Proposed Combination Would Still Fail to Disclose Invention

Even if the ordinary person would have been motivated to modify Schein according to the teachings of Borden, the person would be motivated to replace the pointer of Schein with a stationary selection area of Borden.

There is no teaching in Borden that would lead the ordinary person to make the time line 199 of Schein to be movable upon a user input request, particularly since time line 199 is intended to represent the "current time".

Even if the active cell indicator of Borden were combined into the time line and EPG of Schein, as suggested by the Examiner, since the "grid portion of the vertical line" in Borden is not movable, the proposed combination would still fail to satisfy Applicant's "visual indicator" of claim 1.

Thus, independent claim 1 (and similarly independent claims 33, 65 and 97) are new and non-obvious in view of Schein and Borden.

Moreover, independent claims 65 and 97 are amended to state further that the plurality of cells currently displayed in the program grid are stationary for at least some movements of the visual indicator to new

Art Unit: 2426

positions within the cells currently displayed within the program grid.

As mentioned above, Borden scrolls the program grid.

Arguments are moot in view of new interpretation of previously cited art. Borden is no longer used to teach the elements of claim 1.

In response to applicant's argument:

Broadus discloses a visual indicator (i.e., a strip 514 in Fig. 5). However, Broadus does not disclose a strip that has a portion specifying an action cell wherein that portion is visually different from another portion of the strip (e.g., solid vs. dotted), and wherein said visual indicator is movable along an axis upon a user input request.

Examiner respectfully disagrees. As stated in the claims, the duration strip of claims 15-18 is different from the visual indicator of claim 1. Broadus discloses a strip that informs the user of the progress of a selected program (fig. 5(514) *The bottom portion of the strip is different from the top portion of the strip*). The user can move the duration strip by selecting different programs on the EPG (fig. 6, [0073]). As a result, Broadus teaches the elements of claims 15-18.

### **Conclusion**

Claims 1-128, 161, 162 are rejected.

### **Correspondence Information**

Art Unit: 2426

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hyun J. Hong whose telephone number is (571)270-1553. The examiner can normally be reached on M-F (9:30a-7:00p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571)272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. J. H./  
Examiner, Art Unit 2426

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
January 13, 2010